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11 THE HAIN CELESTIAL GROUP, INC.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SUZANNE SMEDT, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE HAIN CELESTIAL GROUP, INC.,

Defendant.

Case No. CV12-03029 EJD

**STIPULATION AND [PROPOSED]
ORDER TO STAY CASE UNDER
PRIMARY JURISDICTION
DOCTRINE**

Judge: Hon. Edward J. Davila

Action Filed: June 12, 2012

1 The parties to the above-captioned matter hereby stipulate as follows:

2 WHEREAS, on March 24, 2016, the Ninth Circuit issued an opinion in *Kane v. Chobani, LLC.*, No. 14-15670, 2016 U.S. App. LEXIS 5517 (9th Circ. Mar. 24, 2016), deciding that
3 “delineation of the scope and permissible usage of the term[] ‘natural’ . . . in connection with
4 food products ‘implicates technical and policy questions that should be addressed in the first
5 instance by the agency with regulatory authority over the relevant industry rather than by the
6 judicial branch’” and noting that the FDA is currently addressing this issue. (Order at 2.)

7
8 WHEREAS, on March 30, 2016, the Court issued an Order to Show Cause (ECF No. 94)
9 why this action should not be stayed under the primary jurisdiction doctrine until such time as the
10 U.S. Food and Drug Administration completes its proceedings regarding the term “natural” in
11 food labeling.

12 WHEREAS, the parties do not oppose a stay under the primary jurisdiction doctrine.

13 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, between Plaintiff and
14 Defendant, that the above-caption matter shall be stayed pending further guidance from the FDA
15 regarding use of the term “natural” in connection with food products. Nothing in this stipulation,
16 however, forbids either Party from bringing a later motion to seek relief from such a stay if the
17 FDA fails to act in a timely manner.

18 IT IS FURTHER STIPULATED AND AGREED that, within ten days of the FDA
19 providing such guidance, the Parties shall file a joint status report providing notice to the Court of
20 the FDA’s actions.

21

22 Dated: April 1, 2016

23 JAMES M. SCHURZ
24 KEVIN M. COLES
25 MORRISON & FOERSTER LLP

26

27 By: /s/ James M. Schurz
28 James M. Schurz

29

30 Attorneys for Defendant
31 THE HAIN CELESTIAL GROUP, INC.

32

1 Dated: April 1, 2016

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9 Attorney for Plaintiff SUZANNE SMEDT

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ORDER

PURSUANT TO THIS STIPULATION, IT IS SO ORDERED.

The clerk shall administratively close this file.

Dated: 4/7/2016

Edmund Dashiell

Hon. Edward J. Davila
United States District Court Judge

1 **ECF ATTESTATION**

2 I, James M. Schurz, am the ECF User whose ID and password are being used to file the
3 foregoing document. In compliance with Civil Local Rule 5-1(i), I hereby attest that Charles
4 Barrett has concurred in this filing.

5 Dated: April 1, 2016

6 JAMES M. SCHURZ
7 KEVIN M. COLES
8 MORRISON & FOERSTER LLP

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10 By: /s/ James M. Schurz
11 JAMES M. SCHURZ
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CERTIFICATE OF SERVICE

I hereby certify that, on this 1st day of April, 2016, I electronically filed a PDF version of the foregoing document with the Court using the CM/ECF system, which will transmit a Notice of Electronic Filing to all CM/ECF registrants in this case.

James M. Schurz
(typed)

/s/ James M. Schurz
(signature)